

SETTING UP BUSINESS IN CALIFORNIA: A GUIDE FOR INVESTORS



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California Business Investment Services
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INTRODUCTION

SETTING UP BUSINESS IN CALIFORNIA: A GUIDE FOR INVESTORS
was prepared especially to:

- outline and briefly describe the general procedures and issues involved in
- establishing a business in California;
- provide links to forms that may need to be filed to legally set up and operate a business in California; and
- serve as a resource guide to the several government and affiliated agencies and organizations that a business may contact in the establishment process.

California has numerous government agencies, boards and offices with which a business must interact. The number of government entities, along with their own registration and filing requirements, may seem overwhelming at first. The goal of this booklet, therefore, is to present an orderly, functional approach to the services offered and/or filings required by the government entities and their relationship to the business investor.

This booklet was compiled and produced by California Business Investment Services, a unit of the Employment Development Department, and is replete with information contributed from many California and United States agencies, offices, and other organizations. These groups made every effort to provide the most current information and instructions tailored to the needs of business investors.

The result is this collection of resources and information that aims to assist the investor in understanding business practices, registration requirements and filing procedures necessary to successfully register and operate a business in California. Sources should be contacted directly or through the Internet before action is taken to file or register, as fee amounts, forms and registration requirements may change.

CALIFORNIA BUSINESS INVESTMENT SERVICES (CalBIS)

CalBIS was created in 2003 as the principal state office responsible for promoting and advancing investment in California. CalBIS is a part of the Employment Development Department works in collaboration with EDD's Job Service Branch and other federal, state and local agencies. Through its extensive private sector network, business development publications and services, CalBIS provides confidential support and assistance to companies so that they can invest and integrate smoothly into California's business community.

All of CalBIS's services are **free of charge**:

- Site location analysis
- Briefings on California economic development incentives
- Consultation on the California permit and regulatory process
- Dissemination of economic and demographic information

The overall goal of CalBIS and this publication is to ease the establishment of businesses in the state that will help stimulate the economy and increase job opportunities for Californians.

CalBIS
722 Capitol Mall, MIC 47
Sacramento, CA 95814
Tel: (916) 654-7216
Fax: (916) 654-5378
e-mail: CalBIS@edd.ca.gov
Website: <http://www.edd.ca.gov/CalBIS>

PART 1: Information for Foreign Investors

Obtaining a Visa

In preparing for a journey to California, the foreign investor will need to obtain a United States visa. U.S. visa considerations require careful planning well in advance of travel because processing times can be lengthy. The State of California is not involved in the issuance of visas. Necessary forms and filing procedures are supplied by the in-country U.S. Embassy. Address and contact information for U.S. Embassies around the world can be found on the Internet at the website: <http://travel.state.gov/links.html>.

It is highly recommended that a California-based immigration attorney be consulted to clarify which type of visa may be most appropriate for the individual and the company. The immigration attorney should be one located in the same county where the foreign investor will reside. Immigration attorneys are generally listed in the Yellow Pages of the local telephone directory under “attorneys, immigration.” Another resource is:

American Immigration Lawyers Association
918 F Street, NW
Washington, DC 20004-1400
Tel: (202) 216-2400
Fax: (202) 783-7853
Website: <http://www.aila.org>

The threshold question for employees to be transferred to the United States is whether they are classified as *nonimmigrants* or *immigrants*. Nonimmigrants come to the United States temporarily to carry on activities in accordance with the terms of a nonimmigrant visa. Immigrants enter the United States under an immigrant visa and reside here indefinitely in lawful permanent resident status (evidenced by a “green card”).

The following is a summary of the requirements of certain nonimmigrant and immigrant visas. Depending on the persons involved and the length of their projected stay in the United States, visa requirements vary.

NONIMMIGRANT VISAS

Temporary Visitor for Business (B-1)

This is the easiest visa to obtain, but is generally not appropriate for an extended period of time or where productive employment in the United States is contemplated.

B-1 business visas are available to persons coming to the United States temporarily to conduct business on behalf of their foreign employer. They may not engage in local labor for hire, must be compensated by their foreign employer

(expenses are permitted) and must maintain a permanent residence overseas which they have no intention of abandoning.

B-1 visa holders may be admitted for an initial period of up to one year, and may be granted extensions in six-month increments. Under a special program for nationals of certain countries, the Visa Waiver Program allows business visitors to apply for admission to the United States without a visa for up to 90 days, with certain restrictions applied.

Treaty Trader and Treaty Investor (E-1/E-2)

Treaties between the United States and many countries allow foreign nationals to come to the United States to conduct trade or to manage substantial investments (no fixed dollar amount). Those qualifying for the **E-1** (Trader) or **E-2** (Investor) visas can pursue long-term business objectives using these practical visas.

A person may be issued an **E-1 Treaty Trader** visa if:

- The individual or the firm has the nationality of the treaty country (at least half of the company must be owned by nationals of the treaty country).
- The individual is either the principal trader, who is coming to the United States to engage in substantial trade, or an executive, manager or employee with special skills essential to the company.

Countries with treaties for E-1 visas:

Argentina	China (ROC)	France	Italy	Netherlands	Sweden
Australia	Colombia	Germany	Japan	Norway	Switzerland
Austria	Costa Rica	Greece	Korea	Oman	Thailand
Belgium	Denmark	Honduras	Latvia	Pakistan	Togo
Bolivia	Estonia	Iran	Liberia	Philippines	Turkey
Brunei	Ethiopia	Ireland	Lux'bourg	Spain	U.K.
Canada	Finland	Israel	Mexico	Suriname	Yugoslavia

A person may be issued an **E-2 Treaty Investor** visa if:

- The individual or the firm has the nationality of the treaty country (at least half of the company must be owned by nationals of the treaty country).
- The individual or the company has made or is in the process of making a substantial investment (generally in excess of \$100,000 at risk) in a business in the United States.
- The individual is either the principal investor, who will direct and develop the enterprise, or an executive, manager or employee with special skills essential to the company.
- The investment is not the individual's sole income source.

Countries with treaties for **E-2** visas include:

Argentina	China (ROC)	Georgia	Kyrgyzstan	Pakistan	Switzerland
Armenia	Colombia	Germany	Latvia	Panama	Thailand
Australia	Congo	Grenada	Liberia	Philippines	Togo
Austria	Costa Rica	Honduras	Luxembourg	Poland	Trinidad and Tobago
Bangladesh	The Czech Republic	Iran	Mexico	Romania	Tunisia
Belarus	Ecuador	Ireland	Morocco	Senegal	Turkey
Belgium	Egypt	Italy	Moldova	The Slovak Republic	The Ukraine
Bosnia-Herzegovina	Estonia	Jamaica	Mongolia	Spain	United Kingdom
Bulgaria	Ethiopia	Japan	Netherlands	Sri Lanka	Uzbekistan
Cameroon	Finland	Kazakhstan	Norway	Suriname	Yugoslavia
Canada	France	Korea	Oman	Sweden	

Unratified but signed treaties exist with: Albania, Azerbaijan, Haiti, Jordan, Nicaragua, and Russia.

Investors from qualifying countries may apply for an E2 visa in order to 'Direct and Develop' their investment. They may also apply for E2 visas for key managerial and specialist employees. In contrast to the L1 visa, there is no requirement that such employees have worked for the Investor for at least one year in the last three, nor is it necessary for the Investor to continue operations outside the USA while the Investor or his/her employees are in the USA.

E visas are typically valid for one to five years with renewals from the appropriate Immigration Regional Service Center.

Intra-Company Transfer (L-1)

This visa classification is available for an employee of a company. Only those companies that exactly meet the U.S. Immigration and Naturalization Service (INS) definitions of a parent, branch, subsidiary or affiliate qualify to petition for an **L-1** intra-company transferee visa.

There are provisions to allow a new office to open in the United States provided that evidence is submitted to the INS to prove that the new office has a suitable place to do business, a qualifying business structure, and that the employer has the ability to pay the employee and to begin doing business in the United States.

A key qualification for all employees is continuous employment abroad by a qualifying foreign employer for one year within three years preceding the time of the employee's application for admission into the United States.

Intra-company transferees are executives, managers and employees with specialized knowledge.

- If the employee is qualified as a manager or executive, he or she may remain in the United States for up to seven years.
- If the employee is classified as having specialized knowledge, he or she may

stay up to five years.

IMMIGRANT VISAS

Investor visa (EB-5)

The Immigration Act of 1990 includes a program permitting foreign investors to obtain permanent residence in the United States. Known as the Federal Investor Visa Program, it is aimed at generating a significant inward flow of foreign capital and creating jobs for U.S. workers. The law makes 10,000 permanent residency green cards available each year for qualifying immigrant investors.

The Act requires foreign entrepreneurs to make a capital investment of \$1 million for all areas in California, except in rural and high unemployment areas where a lower investment threshold of \$500,000 may be made. In all cases, the investment must also create full-time employment for at least 10 U.S. citizens or other legal residents – other than members of the investor's family – for a period of two years.

Entrepreneurs who meet these criteria may receive a two-year provisional visa. Then, if certain stipulations are met, a permanent green card may be issued, with citizenship granted three years later.

Details of the Federal Investor Visa Program can be obtained from CalBIS:

722 Capitol Mall, MIC 47
Sacramento, CA 95814
Tel: (916) 654-7216
Fax: (916) 654-5378
e-mail: CalBIS@edd.ca.gov

PART 2: Registering a Business in California

DEFINING AND REGISTERING BUSINESS ENTITIES

This section highlights the principal differences between format and registration requirements in California of the following types of business entities:

- General partnership
- Limited partnership
- Limited liability partnership
- Limited liability company
- Corporation

All business registration is made with the California Secretary of State (hereafter referred to simply as the Secretary of State).

Numerous references are available to guide the entrepreneur in forming a *new* business in California. A good source for business start-up kits is:

California Chamber of Commerce

1215 K Street, 14th Floor

Sacramento, CA 95814

Tel: (916) 444-6670

Membership: (800) 649-4921

Fax: (916) 444-6685

Website:

http://www.calchamberstore.com/acb/showdetl.cfm?&DID=7&Product_ID=147&CATID=13

The focus of the following text, therefore, is to present: a) the general format of California business entities; and b) the registration process of *existing* foreign firms to conduct business in California.

GENERAL PARTNERSHIP

General format

A general partnership must have two or more persons engaged in a business for profit. The business is not a separately taxed entity; rather, it is a conduit where the profit or loss flows through to the partners. The partners report their share of the partnership profit or loss on their individual income tax returns. All partners enter into partnership by either oral or written agreement that must cover all terms of the parties' business relationship. Partnerships are quite flexible; a great variety of control and management structures are available by agreement.

Partners are jointly and severally liable for all legal and financial obligations of the partnership and for all wrongful acts of any partner acting in the ordinary course of partnership business. Partnership income is taxed as personal income to the partners.

Registration procedure

A **Statement of Partnership Authority** (GP-1) may be filed with the Secretary of State at the option of the business entity. This document specifies the authority, or limitations on the authority, of some or all of the partners to enter into transactions on behalf of the partnership and any other matter.

Upon receipt, the Secretary of State's Office will review the statement for statutory compliance. Once the document is filed, the Secretary of State will return a file-stamped copy of the GP-1, and a **Certificate of Registration** to the general partnership.

Change or dissolution

If the business filed a **Statement of Partnership Authority** (GP-1) with the Secretary of State, the business should file a **Statement of Dissociation** (Secretary of State form GP-3) to document the partner or partners that have dissociated with the partnership. If the partnership amends or cancels a partnership statement previously filed with the Secretary of State, the firm should note the details on a **Statement of Amendment/Cancellation** (GP-7) and file it with the Secretary of State. This will remove the company from Secretary of State records as an active entity for tax purposes.

For additional information about registering general partnerships, contact:

Secretary of State
Business Filings
1500 11th Street, 3rd Floor
Sacramento, CA 95814
Attention: General Partnerships
Tel: (916) 653-3365
Website: <http://www.ss.ca.gov/business/gp/gp.htm>

Forms and Reference

Statement of Partnership Authority (GP-1)

Website: <http://www.ss.ca.gov/business/gp/forms/gp-1.pdf>

Statement of Dissociation (GP-3)

Website: <http://www.ss.ca.gov/business/gp/forms/gp-3.pdf>

Statement of Amendment/Cancellation (GP-7)

Website: <http://www.ss.ca.gov/business/gp/forms/gp-7.pdf>

LIMITED PARTNERSHIP (LP)

General format

Limited partnerships are formed by two or more people, with at least one person acting as the general partner who has management authority and personal liability, and at least one person in the role of limited partner who is a passive investor with no management authority. All partners – both general and limited – must enter into limited partnership by either oral or written agreement.

Limited partnerships are managed and controlled by general partners; general partners have authority to bind the partnership. Limited partners normally do not participate in managing the business.

The general partners are liable for partnership obligations to the same extent as partners of general partnerships. Limited partners, however, are generally not liable for partnership obligations; their only risk is their agreed capital contribution, or as provided in the partnership agreement. However, if limited partners participate in the management of the partnership business, they may lose their protected limited partner status and become liable for all risk.

Registration procedure for domestic businesses

A limited partnership must complete and file a ***Certificate of Limited Partnership*** (Secretary of State form LP-1). There is a \$70 filing fee.

Registration procedure for foreign businesses

A foreign-owned limited partnership must complete and file a ***Foreign Limited Partnership Application for Registration*** (Secretary of State form LP-5), along with a \$70 filing fee. The ***Foreign Limited Partnership Application for Registration*** identifies the principal executive office and the agent of record in California. Upon receipt, the Secretary of State's Office will review the ***Foreign Limited Partnership Application for Registration*** for statutory compliance. Once the document is filed, the Secretary of State will return a file-stamped copy of the LP-5, plus a ***Certificate of Registration*** to the limited partnership.

Limited partnerships are required to pay an annual \$800 franchise tax in order to conduct business in California. State and federal tax liability on taxable income is passed through to the partners (see Section 6 of this booklet, *Registering for Business Taxes*).

Change or dissolution

Change or dissolution occurs in accordance with specifications in the partnership agreement, and as provided in the relevant code provisions for the limited partnership.

To register a change in the limited partnership, the company must complete the ***Amendment to Certificate of Limited Partnerships*** (Secretary of State form LP-2) and pay a \$30 fee. Foreign firms must complete the ***Foreign Limited Partnership Amendment to Application for Registration*** (Secretary of State form LP-6) and submit it to the Secretary of State with the required \$30 filing fee.

To register cancellation or dissolution of the limited partnership, the company must complete ***Limited Partnership Certificate of Cancellation*** (Secretary of State form LP-4/7) and submit it to the Secretary of State. There is no filing fee.

For additional information regarding limited partnerships, contact:

Secretary of State
Business Filings
1500 11th Street, 3rd Floor

Sacramento, CA 95814
Attention: Limited Partnerships
Tel: (916) 653-3365
Website: <http://www.ss.ca.gov/business/lp/lp.htm>

Forms and reference

Certificate of Limited Partnership (LP-1)

<http://www.ss.ca.gov/business/lp/forms/lp-1.pdf>

Foreign Limited Partnership Application for Registration (LP-5)

Website: <http://www.ss.ca.gov/business/lp/forms/lp-5.pdf>

Foreign Limited Partnership Amendment to Application for Registration (LP-6)

Website: <http://www.ss.ca.gov/business/lp/forms/lp-6.pdf>

Limited Partnership Certificate of Cancellation (LP-4/7)

Website: <http://www.ss.ca.gov/business/lp/forms/lp-4.pdf>

LIMITED LIABILITY PARTNERSHIP (LLP)

General format

In a limited liability partnership, the partners enjoy some protection against personal liability. Each partner must be a person licensed under California laws to engage in the practice of public accountancy, law or architecture. The LLP is not a separate entity for income tax purposes; profits and losses are passed through to the partners and reported on each individual's tax return.

A registered limited liability partnership must either a) maintain a malpractice liability insurance policy against claims of at least \$100,000 multiplied by the number of licensed practitioners in the LLP; or alternately, b) satisfy this requirement by confirming in writing that as of the most recently completed fiscal year, the LLP had a net worth of at least \$10 million for an LLP providing accountancy services, \$15 million for an LLP providing legal services, or \$10 million for an LLP providing architectural services.

Like a general partnership, all partners have equal rights in the management of an LLP unless otherwise agreed. Partnerships are quite flexible; a great variety of control and management structures are available by agreement.

Each partner is responsible for liabilities imposed by law arising out of his or her own acts and omissions. In addition, each partner is responsible for debts and liabilities as defined in the LLP agreement.

Registration procedure

Firms must complete the ***Registered Limited Liability Partnership Registration*** (Secretary of State form LLP-1) and submit it to the Secretary of State along with a \$70 filing fee. In addition, if the LLP chooses to satisfy the malpractice liability requirement by confirming the minimum net worth, the LLP must also complete and file a ***Limited Liability Partnership Alternative Security Provision*** transmittal form (Secretary of State form LLP-3) with the Secretary of State. Upon receipt, the Secretary of State's Office will review the registration form for statutory

compliance. Once the document is filed, the Secretary of State will return a file-stamped copy of the LLP-1, plus a **Certificate of Registration** to the limited liability partnership.

Change or dissolution

To register a change in the LLP, one or more authorized partners must complete and submit a **Limited Liability Partnership Amendment to Registration** (Secretary of State form LLP-2) along with a \$30 filing fee to the Secretary of State.

To register cancellation or dissolution of the LLP, one or more authorized partners must complete a **Notice of Change of Status** (Secretary of State form LLP-4) and submit it with a \$30 filing fee and a completed **Request for Tax Clearance Certificate** (Franchise Tax Board form FTB 3555L) to the Secretary of State. The Secretary of State will submit the request to the Franchise Tax Board, which will return the tax clearance certificate to the company and the Secretary of State.

For additional information regarding registration of limited liability partnerships, contact:

Secretary of State
Business Filings
1500 11th Street, 3rd Floor
Sacramento, CA 95814
Attention: Limited Liability Partnerships
Tel: (916) 653-3365
Website: <http://www.ss.ca.gov/business/llp/llp.htm>

For additional information regarding the **Request for Tax Clearance Certificate**, contact:

Franchise Tax Board
Tax Clearance Unit
P.O. Box 1468
Sacramento, CA 95812-1468
Tel: (916) 845-4124

Forms and reference

Registered Limited Liability Partnership Registration (LLP-1)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-1.pdf>

Limited Liability Partnership Alternative Security Provision (LLP-3)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-3.pdf>

Limited Liability Partnership Amendment to Registration (LLP-2)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-2.pdf>

Limited Liability Partnership Notice of Change of Status (LLP-4)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-4.pdf>

Request for Tax Clearance Certificate (FTB 3555L)

Website: <http://www.ftb.ca.gov/forms/index.html>. Click on the current tax filing year, then under the subheading "Tax Forms and Instructions," find the link for FTB 3555L.

LIMITED LIABILITY COMPANY (LLC)

General format

A limited liability company is a hybrid business entity. It has a separate legal existence and generally offers liability protection to its owners (called members). All members must enter into an operating agreement by either oral or written agreement.

It can be classified as either a partnership or a corporation for tax purposes. The Franchise Tax Board will automatically classify the LLC with two or more members as a partnership unless the company elects to be taxed as a corporation. If the LLC is classified as a partnership, the profit or loss flows through to the owners/members; the LLC is subject to an annual minimum state tax plus an annual fee based on total income.

Alternately, if it is classified as a corporation, it is treated like any other corporation and is required to pay tax on its net income, including the applicable minimum state tax of \$800.

An LLC may be managed by managers who are not members, if provided for in the articles of the organization. However, if the LLC is managed by managers, they alone have authority to bind the LLC; members and directors have no authority in these matters. Otherwise, the LLC is managed by its members. In this case, every member is an agent of the LLC and has the power to bind the LLC and the right to vote on merger or dissolution. Members and managers of the LLC have the same degree of limited liability as a shareholder of a corporation.

Registration procedures

Domestic Companies

A domestic limited liability company registers as an LLC by completing the ***Articles of Incorporation*** (Secretary of State form LLC-1) and submitting it to the Secretary of State along with a \$70 filing fee. This form identifies the principal executive office, the principal office in California and the agent for service of process.

Foreign Companies

The foreign limited liability company registers as an LLC by completing a ***Limited Liability Company Application for Registration*** form (Secretary of State form LLC-5) and submitting it to the Secretary of State along with a \$70 filing fee. This form identifies the principal executive office, the principal office in California and the agent for service of process.

The ***Limited Liability Company Application for Registration*** must be accompanied by an official **certificate** that verifies the limited liability company exists in good standing with the country or state of its formation. This certificate must be obtained from the appropriate office in which the original LLC was registered and presented with an English translation where applicable. The certificate must have been issued within six months prior to submittal to the Secretary of State.

The Secretary of State's Office will review the **Limited Liability Company Application for Registration** for statutory compliance, then return a file-stamped copy of the LLC-5 along with a **Certificate of Registration** to the limited liability company.

Foreign limited liability companies registered in California must file an annual **Statement of Information**. Forms are mailed to the LLC from the Secretary of State to the last address of record approximately three months prior to the due date.

Changes or Amendments

To register any change in a domestic LLC, a **Certificate of Amendment to the Articles of Incorporation** (Secretary of State form LLC-2) must be filed and a \$30 fee submitted.

To register any change in a foreign LLC, one or more authorized persons must complete a **Limited Liability Company Application for Registration Certificate of Amendment** (Secretary of State form LLC-6) and submit it to the Secretary of State along with the \$30 filing fee.

Cancellation or Dissolution

To register cancellation or dissolution of a foreign or domestic LLC, one or more authorized persons must complete a **Limited Liability Company Certificate of Cancellation** (Secretary of State form LLC-4/7) and submit it to the Secretary of State. There is no filing fee for this form. The LLC-4/7 must be accompanied by a completed **Request for Tax Clearance Certificate** (Franchise Tax Board form FTB 3555L). The Secretary of State will submit the request to the Franchise Tax Board, which will return the tax clearance certificate to the company and the Secretary of State.

For additional information regarding registration of limited liability companies, contact:

Secretary of State
Business Filings
1500 11th Street, 3rd Floor
Sacramento, CA 95814
Attention: Limited Liability Companies
Tel: (916) 653-3795
Website: <http://www.ss.ca.gov/business/lc/lc.htm>

Forms and reference

Articles of Incorporation (LLC-1)

<http://www.ss.ca.gov/business/lc/forms/lc-1.pdf>

Limited Liability Company Certificate of Amendment (LLC-2)

<http://www.ss.ca.gov/business/lc/forms/lc-2.pdf>

Limited Liability Company Application for Registration (for foreign companies) (LLC-5)

Website: <http://www.ss.ca.gov/business/lc/forms/lc-5.pdf>

Limited Liability Company Application for Registration Certificate of Amendment (for foreign companies) (LLC-6)

Website: <http://www.ss.ca.gov/business/lc/forms/lc-6.pdf>

Limited Liability Company Certificate of Cancellation (LLC-4/7)

Website: <http://www.ss.ca.gov/business/lc/forms/lc-4-7.pdf>

Request for Tax Clearance Certificate (FTB 3555L)

Website: <http://www.ftb.ca.gov/forms/index.html>. Click on the current tax filing year, then under the subheading "Tax Forms and Instructions," find the link for FTB 3555L.

CORPORATION

General format

A corporation is a separate legal entity owned by shareholders who enjoy protection from personal liability. Corporations are taxed annually on their earnings; corporate shareholders pay individual income tax on these earnings when they are distributed as dividends.

A corporation is managed by or under the direction of a board of directors, which generally determines corporate policy. Officers manage the day-to-day affairs of the corporation. Shareholders do not participate in day-to-day management activities. Management structure can be altered by committees of board members and shareholder agreements.

Shareholders generally are not personally liable for obligations of the corporation.

Registration procedures

Domestic Corporations

Domestic **stock** companies must complete the ***Articles of Incorporation*** and pay a \$100 fee to the Secretary of State. There are three versions of the Articles of Incorporation: general stock corporation, professional corporation and close corporation.

Non-Profit Corporations

Non-profit companies must file ***Articles of Incorporation*** and submit a \$30 fee to the Secretary of State. There are two versions of the Articles: one for ***Public Benefit, Mutual Benefit or Religious Corporations*** and one for ***Common Interest Development Corporations***.

Foreign Corporations

A foreign corporation must complete a ***Statement and Designation by Foreign Corporation*** (Secretary of State form S&DC-General) and submit it to the Secretary of State along with the \$100 filing fee. This form identifies the company name and place of incorporation, principal executive office, address of the principal California office, and an agent for service of process.

Along with the completed **Statement and Designation by Foreign Corporation** form, a foreign corporation must include an official **certificate** that verifies the corporation exists in good standing with the country or state of its incorporation. This certificate must be obtained from the appropriate office in which the corporation's original articles were filed and presented with an English translation where applicable. The certificate must have been issued within the six months prior to submittal to the Secretary of State.

Upon receiving the **Statement and Designation by Foreign Corporation** (accompanied by the **certificate**), the Secretary of State's office will review the statement for compliance with the law, and then issue a file-stamped copy of the S&DC General form plus a **Certificate of Qualification** to the corporation.

Foreign corporations qualified to transact business in California must file a **Statement by Foreign Corporation** with the Secretary of State's Office on the first anniversary and every year thereafter. Forms are mailed to the corporation from the Secretary of State's Office to the last address of record.

Change or dissolution

To amend (change, add or delete) provisions contained in the Articles of Incorporation, it is necessary to prepare and file with the Secretary of State a **Certificate of Amendment of Articles of Incorporation**. The fee is \$30.

To change the name of a qualified foreign corporation, the company must complete and submit an **Amended Statement by Foreign Corporation** (no form number) to the Secretary of State along with the \$30 filing fee.

Upon dissolution of the corporation, the company must complete and submit a **Certificate of Surrender of Right to Transact Intrastate Business** (no form number) to the Secretary of State to withdraw the corporation from California records. There is no filing fee.

For additional information regarding qualification and statement filing for corporations, contact:

Secretary of State
Business Filings
1500 11th Street, 3rd Floor
Sacramento, CA 95814
Attention: Corporations
Tel: (916) 653-2318
Website: <http://www.ss.ca.gov/business/corp/corporate.htm>

Forms and reference

Articles of Incorporation – General Stock

http://www.ss.ca.gov/business/corp/corp_artsstinfo.htm

Articles of Incorporation – Professional Corporation

http://www.ss.ca.gov/business/corp/corp_artsprofinfo.htm

Articles of Incorporation – Close Corporation

http://www.ss.ca.gov/business/corp/corp_artscloseinfo.htm

Articles of Incorporation – Non-profit Public Benefit

http://www.ss.ca.gov/business/corp/corp_artsnpinf.htm

Articles of Incorporation – Non-profit Common Interest Development

http://www.ss.ca.gov/business/corp/corp_artscidinf.htm

Statement and Designation by Foreign Corporation (S&DC-General)

Website: http://www.ss.ca.gov/business/corp/pdf/foreign/corp_s&dcgen.pdf

Amended Statement by Foreign Corporation

Website: http://www.ss.ca.gov/business/corp/pdf/foreign/corp_asdc.pdf

Foreign Corporation Surrender of Right to Transact Intrastate Business

Website: http://www.ss.ca.gov/business/corp/pdf/foreign/corp_surr.pdf

REGISTERING A FICTITIOUS BUSINESS NAME

A fictitious business name statement (d.b.a., or “doing business as”) must be registered with the county clerk of the county of the registrant’s principal place of business if the business is any of the following:

- Sole proprietorship doing business under a name not containing the owner’s surname, such as Smith Accounting Services
- Partnership
- Corporation doing business under a name other than its legal name

Fictitious business names are not filed with the Secretary of State’s Office. There is no provision in California for registration, in a central registry at the state level, of fictitious business names. You must contact the [city and/or county clerk and/or recorder](#) where the principal place of business is located for information regarding filing or registering fictitious business names.

Even though a proposed corporate name has been checked and/or reserved, stationery, signs, corporate seals, etc., should not be ordered until you receive notification of filing from the Secretary of State’s Office, because the corporation is not created or qualified until appropriate documents have been filed with the Secretary of State’s office.

The statement must be filed within 40 days of the commencement of business or before the statement on file expires. Along with the original, the county may require several copies of the statement for filing. The county clerk will certify and return all copies to the registrant, keeping the original.

Within 30 days after filing a fictitious business name statement, the registrant must publish the statement in a newspaper of general circulation in the county of its principal place of business. The notice must appear once a week for four successive weeks. Within 30 days of the last publishing date, the registrant must file an affidavit of publication with the county clerk’s office.

The fee to file a fictitious business name statement is varies depending on the county or city where it is filed.

Inquiries should be directed to the county clerk's office in which the business will be located.

FILING FOR LOCAL LICENSES AND PERMITS

Most cities and counties require a license to do business in the respective areas. Various permits may be required for parking and building occupancy. Fire safety regulations will be taken care of by the building owners in most cases.

Businesses within the incorporated area of a particular city should contact the business licensing section of that city government for specific rules and regulations. Businesses operating in more than one city or county may be required to have more than one business license. The business license fee varies with location; it may be a flat rate, percentage of gross sales, or a combination of factors.

In addition, companies may be subject to local personal property taxes and be required to register with the county assessor's office. Other local taxes, such as hotel occupancy, may require deposits and special permits. Information on specific requirements should be requested from local city or county clerk's offices.

REGISTERING A COMPANY'S TRADEMARK AND SERVICE MARK

A company may register its trademark or service mark with the Secretary of State by filing the completed form, **Registration of Trademark and Service Mark** (Secretary of State form LP/TM 100) along with a fee of \$70. The regulations governing the registration of these are rather complex; a company should obtain specific instructions directly from the Secretary of State.

For additional information about registering a trademark or service mark, contact:

Secretary of State
Trademark and Service Mark Registration
1500 11th Street, Suite 345
Sacramento, CA 95814
Tel: (916) 653-4984
Website: <http://www.ss.ca.gov/business/ts/ts.htm>

Forms and reference

Registration of Trademark and Service Mark (LP/TM 100)

Website: <http://www.ss.ca.gov/business/ts/forms/tm-100.pdf>

REGISTERING FOR BUSINESS TAXES

Because of the complexity of tax laws and their strict enforcement, it is strongly recommended that companies acquire specific assistance from a certified public accountant or tax attorney regarding tax questions and tax return preparation. Accountants or tax attorneys may be found in the local telephone Yellow Pages under “accountants” or “attorneys, taxation law.”

STATE OF CALIFORNIA

A business operating in California may be liable for taxes based on the company's annual income. Such taxes are paid to the Franchise Tax Board (FTB).

A business that registers with the Secretary of State has completed the necessary procedure to register for purposes of annual taxes payable to the FTB. The Secretary of State communicates the registration of the business with the Franchise Tax Board, which in turn sends the company the appropriate forms to file annual taxes.

Sole proprietorships and general partnerships are not subject to a tax, but the owner of a sole proprietorship and the partners of a general partnership pay annual state taxes on their business income at the rate applicable to the owner or partner.

Limited partnerships and ***limited liability partnerships*** must pay an annual \$800 tax if they conduct business in California, are organized in California, or have registered with the Secretary of State. Tax on income derived from a limited partnership or limited liability partnership is paid by the partner at the rate applicable to the partner.

Limited liability companies classified as partnerships are subject to an \$800 annual tax, plus a fee based on total income. LLCs classified as corporations follow corporation rules to pay their annual state tax.

Corporations doing business in California are required to prepay their annual franchise tax. Payments for the first taxable year are made to the Secretary of State which in turn transmits the amount to the FTB; subsequent annual payments of franchise tax are made to the FTB. The amount of tax payable to the FTB is measured by the income of the preceding income year derived from business done in California, with an \$800 minimum payment.

A new law provides that every corporation incorporating or qualifying to do business in California on or after January 1, 2000, will not be subject to the *minimum* franchise tax for its first and second taxable years. This exemption from the minimum franchise tax is not applicable to any corporation that reorganizes solely for the purpose of avoiding payment of its minimum franchise tax. Additionally, this new law applies only to corporations, and not any other form of business.

A comprehensive publication summarizing all California and federal tax obligations is:

Striking Gold in California

Greater Sacramento Small Business Development Center
1410 Ethan Way
Sacramento, CA 95825
Tel: (916) 563-3210
Fax: (916) 563-3266
Website: <http://www.taxes.ca.gov/striking.pdf>

Partnership tax details are explained in:

Form 565 Booklet – Partnership Tax Booklet

Franchise Tax Board
P.O. Box 942857
Sacramento, CA 94257-0500
Toll-free telephone in the United States: (800) 852-5711
Tel: (916) 845-6500
Website: http://www.ftb.ca.gov/forms/03_forms/03_565bk.pdf

Limited liability company tax details are explained in:

Form 568 – California Limited Liability Company Tax Booklet

Website: http://www.ftb.ca.gov/forms/03_forms/03_568bk.pdf

Corporation tax details are explained in:

Guide for Corporations Starting Business in California (FTB publication 1060)

Franchise Tax Board
Website: <http://www.ftb.ca.gov/forms/misc/1060.pdf>

The Questions Taxpayers Ask Most Often

Franchise Tax Board
Website: <http://www.ftb.ca.gov/forms/misc/1083.pdf>

U.S. FEDERAL GOVERNMENT

A business operating in the United States is also liable for federal corporate tax. The company must register for an Employer Identification Number (EIN). The EIN is used for filing federal income and payroll taxes, as well as withholding income taxes for employees.

The only business that does not need an EIN is a sole proprietor who has no employees and who files no excise or pension tax returns. In this instance, the sole proprietor uses his or her social security number instead of an EIN as the taxpayer identification number. A sole proprietor who has employees and who files excise or pension tax returns may have only one EIN regardless of how many different businesses are owned.

To obtain an EIN, the business must complete an ***Application for Employer Identification Number*** (Form SS-4), and for a business located in California, file it with:

Internal Revenue Service
Entity Control
Fresno, CA 93888

A business may also apply for an EIN by telephone. Form SS-4 contains instructions on how to file for an EIN by telephone. It may take four weeks to receive an EIN by mail; however, an EIN can be assigned immediately when applied for by telephone.

Additional information about the EIN or other IRS matters can be obtained from:

Internal Revenue Service
Customer Service
1301 Clay Street, Suite 160 South
Oakland, CA 94612
Tel: (510) 637-2487

Toll-free telephone within the United States: (800) 829-1040
Telephone at Washington, D.C. headquarters: (202) 874-1460

e-mail (accessed via the IRS website):

<http://www.irs.ustreas.gov/prod/help/newmail/user.html>

Several publications on specific IRS tax topics can be found on the Internet at:

http://www.irs.ustreas.gov/prod/bus_info/library.html

Additional resource: ***Understanding your EIN***

Website: <http://www.irs.gov/pub/irs-utl/p1635.pdf>

IRS Overseas Assistance Centers

Europe

Berlin, Germany	(49-30) 8305-1140
London, England	(44-207) 408-8077
Paris, France	(33-1) 4312-2555
Rome, Italy	(39-06) 4674-2560

Latin America

Mexico City, Mexico	(52-555) 080-2191
Santiago, Chile	(56-2) 330-3424

Asia

Singapore	(65-6) 476-9413
Tokyo, Japan	(81-3) 3224-5466

Forms and reference

Application for Employer Identification Number (Form SS-4)

Website: <http://www.irs.gov/pub/irs-pdf/fss4.pdf>

Part 3: Operating a Business

GETTING LOANS and FINANCIAL ASSISTANCE

COMMERCIAL FINANCIAL INSTITUTIONS

The best chances for obtaining commercial loans are through in-country financial institutions or their overseas branch offices or affiliates with which a business already has an account and/or relationship. CalBIS does not provide guidance on obtaining commercial loans. However, CalBIS can assist companies in identifying California offices of foreign financial institutions.

VENTURE CAPITAL

The benefits, risks, sources and guides to obtaining venture capital are widely documented. For starters, a great amount of information can be found at a local bookstore about the possibilities, application processes, and publications that list sources of venture capital. CalBIS does not provide guidance on obtaining venture capital.

GOVERNMENT SOURCES

Several state-sponsored financial assistance programs are available to firms locating, expanding or modernizing facilities in California. The types of assistance available can be grouped into three broad categories:

- Business financing
- Environmental loans
- Public infrastructure financing

Business financing is provided directly to companies in order to undertake various projects. Each program has its own specific requirements for qualification and terms for approval. Financing is available in the form of industrial development bonds, small business loan guarantees, new technology development matching grant funds and technical assistance, and export finance loan guarantees, among many others.

Environmental loans reflect California's commitment to the preservation of the environment. The state has implemented various loan programs to help companies clean up the environment and implement environmentally friendly programs. The loan proceeds are used for such things as replacing or upgrading underground petroleum tanks, reducing hazardous waste and recycling.

Public infrastructure financing provides financial assistance to cities and counties for public infrastructure projects. Although not directly available to individual businesses, cities and counties can get public infrastructure financing and provide it to qualified businesses locating in their areas.

OPENING A BANK ACCOUNT

To open a bank account in California, a company or individual might want to consider opening an account at a bank in the home country that has affiliated branches in California. Although new California accounts will most likely require the same documentation whether affiliated with a foreign bank or not, having an account at the same bank in the home country may facilitate the process of opening an account in California.

To open a *company* bank account, the company must first register to conduct business in California and obtain file-stamped copies of the registration papers (see section 2 of this booklet, *Defining and Registering Business Entities*). Once registered, an authorized company representative would go to see a new accounts officer at the bank where the company wishes to open an account. Documents required to open an account for a firm include all three categories of the following:

- Fictitious business name statement, where applicable. (See section 3 of this booklet, *Registering a Fictitious Business Name*.)
- Employer Identification Number (EIN). (See section 6 of this booklet, *Registering for Business Taxes, U.S. Federal Government*.)
- File-stamped copies plus copy certification from the Secretary of State validating that the company is registered to conduct business in California.

Certificates of Registration or Qualification may also be included.

To open an *individual* account in California, the new accounts officer will ask for a taxpayer identification number. This will be either a Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN). These can be obtained free of charge from the Social Security Administration.

Lawfully admitted aliens with Immigration and Naturalization Service (INS) permission to work in the United States will need a Social Security Number (SSN). To apply for an SSN, the individual will need his or her INS papers and a completed ***Application for a Social Security Card*** (Form SS-5). This form is available by calling the Social Security Administration toll-free within the United States at (800) 772-1213, or from Social Security Administration (SSA) offices. SSA offices can be located on the Internet at <http://s3abaca.ssa.gov/pro/foi/foi-home.html>

Finally, the SS-5 must be taken or mailed to the nearest Social Security office, along with the originals or certified copies of supporting (INS) documents. The original documents will be returned by mail right away. The Social Security Card will be mailed to the applicant in about two weeks.

Those who do not meet the requirements to obtain a SSN may apply for an Individual Taxpayer Identification Number (ITIN) by completing the ***Application for***

IRS Individual Taxpayer Identification Number (Form W-7) and submitting it to the nearest SSA office in the same manner as described above.

For additional information, or to obtain or submit forms, consult the SSA:

Social Security Administration

Toll-free telephone within the United States: (800) 772-1213

Social Security Administration offices

Website listing: <https://s3abaca.ssa.gov/pro/fol/fol-home.html>

Questions to the SSA may also be mailed to:

Regional Public Affairs Office

Social Security Administration

P.O. Box 4201

Richmond, CA 94804

Forms and reference

Application for a Social Security Card (Form SS-5)

Website: <http://www.ssa.gov/replace/sscard.html>

Application for IRS Individual Taxpayer Identification Number (Form W-7)

Website: <http://www.irs.gov/pub/irs-pdf/fw7.pdf>

SELLING MERCHANDISE

Under the Sales and Use Tax Law, the sale or use of tangible personal property in California is subject to a statewide tax of 7.25 percent. This rate includes both a state tax and a state-administered local sales and use taxes for cities and counties. Several counties and cities also have special district taxes that are applied in increments of .125 to .50 percent. Since a county or city may have more than one special tax district, sales and use tax rates in California currently range from 7.25 percent to 8.50 percent depending on the place of sale or use.

Sales and use taxes are overseen by the California Board of Equalization (BOE). For a complete, current list of tax rates by county and city, businesses should obtain a copy of BOE Pamphlet No. 71, **California City and County Sales Use Tax Rates**. Copies are available from any BOE office listed at the end of this section, or at the website: <http://www.boe.ca.gov/sutax/pam71.htm>.

There is no federal sales, use or value-added tax.

Sales and use tax pertaining to interstate and foreign commerce is discussed in the publication, **Board of Equalization Sales and Use Tax Regulation No. 1620, Interstate and Foreign Commerce**, which can be obtained from the BOE or at the website: <http://www.boe.ca.gov/pdf/reg1620.pdf>.

Detailed information about sales tax can be obtained from:

California Board of Equalization

Customer and Taxpayer Service

P.O. Box 942879
Sacramento, CA 94279-0001
Toll-free telephone within the United States: (800) 400-7115
Tel: (916) 445-6464
Fax: (916) 322-2015
Website: <http://www.boe.ca.gov/sutax/saletax.htm>

SELLER'S PERMIT

Businesses in California that sell tangible personal property in the state are liable for the collection of sales tax and must apply to the Board of Equalization for a seller's permit for each location in the state. If a business changes ownership or business locations, it must obtain a new permit.

To file for a seller's permit – whether selling as retail or wholesale – the registrant must complete an ***Application for a Seller's Permit and Registration as a Retailer*** (Forms BOE-400-MCO and BOE-400-MIP; Appendices I-1 and I-2). The registrant can file either by mail or in person. When applicable, the BOE will forward a copy of the application to the Employment Development Department (EDD) to assist in the registration of the employer for unemployment tax purposes.

Businesses using tangible personal property in California purchased for use in the state, without the payment of sales tax, are liable for use tax. A company would most commonly be subject to use tax on property that is purchased outside California and used in the state, or inventory that is purchased without tax and then converted to business or personal use. Generally, a business can report use tax by reporting the purchase price of the property on line 2 of its sales tax return. If a business does not need a sales tax permit, it must register for a use tax permit if it incurs a use tax liability on a regular basis. To determine if a business needs a use tax permit, a company representative should contact one of the Board of Equalization offices listed at the end of this section.

There is no fee for obtaining a sales or use tax permit. However, the BOE may require a security deposit for some corporations. Notification will be given through a ***Notice of Security Requirements***.

Details about seller's permits may be obtained from the following:

Your California Seller's Permit: Your Rights and Responsibilities Under the Sales and Use Tax Law

California Board of Equalization
Customer and Taxpayer Service
P.O. Box 942879
Sacramento, CA 94279-0001
Toll-free telephone within the United States: (800) 400-7115
Tel: (916) 445-6464
Fax: (916) 322-2015
Website: <http://www.boe.ca.gov/pdf/pub73.pdf>

Application for a Seller's Permit and Registration as a Retailer –
Corporations/Limited Liability Company/Organizations (BOE-400-MCO)
Website: <http://www.boe.ca.gov/pdf/boe400mco.pdf>

Application for a Seller's Permit and Registration as a Retailer –
Individuals/Partners (BOE-400-MIP)
Website: <http://www.boe.ca.gov/pdf/boe400mip.pdf>

MANUFACTURING PRODUCTS

PERMITS

A company seeking to establish a manufacturing facility in California will need to obtain the appropriate government permits for the type and location of the business. (See note below.)

PROTECTING CALIFORNIA'S ENVIRONMENT: *Land use and planning obligations for both sellers and manufacturers*

Land use and planning in California is regulated by a set of environmental review requirements. Any project that will potentially affect the environment engages certain requirements stated in the California Environmental Quality Act (CEQA).

The permit process is independent yet integral to the CEQA process. The issuance of any permit must consider potential environmental consequences of activities to be conducted under the requested permit. CEQA, in turn, addresses those concerns in one document in which all permit agencies, the land use decision agency, the project proponent, and the general public participate. The document, typically an *Environmental Impact Report* (EIR), is the initial step upon which subsequent permit decisions are based.

Although streamlined in recent years, the California permitting process can be complex.

CalBIS stands ready as the first point of contact to guide and direct a business through the permitting process. CalBIS can be contacted at:

California Business Investment Services
Employment Development Department
722 Capitol Mall, MIC 47
Sacramento, CA 95814
Tel: (916) 654-7216
Fax: (916) 654-5378
e-mail: CalBIS@edd.ca.gov
Website: <http://www.InvestCA.com>

Issuance of the permits indicates that the company agrees to build and operate its facility in compliance with the federal, state and local building and environmental laws. Many small, non-manufacturing facilities may not require a significant permit process or an EIR.

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NOTE:

A very handy website that provides businesses with general information on permits and other requirements of California agencies at all levels of government is the CalGold website, sponsored by the California Environmental Protection Agency:
<http://www.calgold.ca.gov>

Part 4: Administering Employees

According to the U.S. Internal Revenue Service (IRS), an employee is “anyone who performs services that can be controlled by an employer.” People who run their business only by themselves are not defined as employees.

There are specific federal, state and local requirements regarding equal opportunity employment, employee safety and health protection, taxes and insurance. These and other issues about administering employees are discussed below.

COMPLYING WITH EQUAL EMPLOYMENT OPPORTUNITY LAWS

EMPLOYEE RIGHTS

Federal and state laws and regulations protect employee rights. Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under the following federal laws:

Race, color, religion, sex, national origin

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex or national origin.

Disability

The Americans with Disabilities Act of 1990, as amended, protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability. The law also requires that covered entities provide qualified applicants and employees with disabilities with reasonable accommodations that do not impose undue hardship.

Age

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination on the basis of age in hiring, promotion, discharge, compensation, terms, conditions or privileges of employment.

Sex (Wages)

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act (see above), the Equal Pay Act of 1963, as amended, prohibits sex discrimination in

payment of wages to women and men performing substantially equal work in the same establishment.

Retaliation against a person who files a charge of discrimination, participates in an investigation, or opposes an unlawful employment practice is prohibited by all of these federal laws.

Other federal laws and regulations may apply to employers holding federal contracts or subcontracts, or programs. Inquiries and requests for additional information about federal discrimination laws should be addressed to:

U.S. Equal Employment Opportunity Commission (EEOC)

1801 L Street, N.W.

Washington, D.C. 20507

Tel: (202) 663-4001

...or an EEOC field office by calling toll free in the United States:

(800) 669-4000

Website: <http://www.eeoc.gov/>

EEOC – San Francisco District Office

901 Market Street, Suite 500

San Francisco, CA 94103

Tel: (415) 356-5042

Fax: (415) 356-5126

EEOC – Los Angeles District Office

255 East Temple Street, 4th Floor

Los Angeles, CA 90012

Tel: (213) 894-1000

Fax: (213) 894-1118

Harassment

The California Fair Employment and Housing Act of 1959 protects employees against harassment or discrimination in employment because of sex, race, color, religious creed, national origin, disability (mental and physical, including HIV and AIDS), medical condition, age, marital status, as well as family, medical care or pregnancy disability leave needs. Sexual harassment is defined as unsolicited and unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature that occurs and creates an intimidating, hostile or otherwise offensive working environment.

The law provides for administrative fines and for remedies for individuals, which may include hiring, back pay, promotion, reinstatement, cease-and-desist order, punitive damages, and damages for emotional distress.

Additional information about California harassment laws and related issues can be obtained through:

Department of Fair Employment and Housing

2000 O Street, Suite 120

Sacramento, CA 95814-5212
Toll-free telephone throughout California: (800) 884-1684
Tel: (916) 445-5523
Fax: (916) 323-6092
Website: <http://www.dfeh.ca.gov/fehalInfo.asp>

Additional information and guidelines on employee rights and other labor management issues can be found by consulting the following source:

California Labor Law Digest Kit
California Chamber of Commerce
1215 K Street, Suite 1400
Sacramento, CA 95814
Toll-free telephone in the United States: (800) 331-8877
Tel: (916) 444-6670
Fax: (916) 444-6685
Website: <http://www.calchamberstore.com/calchamber>

AT-WILL EMPLOYMENT AND WRONGFUL TERMINATION

California's Labor Code specifies that an employment relationship with no specified duration is presumed to be employment "at-will." This means, at least in theory, that the employer or employee may terminate the employment relationship at any time, with or without cause. There are exceptions to the at-will rule created by statute, the courts or public policy.

Statutory exceptions include terminating an employee for reasons based on the discrimination laws discussed above; for participating in union activity; for refusing to carry out an activity that violates the law.

Court cases that involve claims for wrongful termination in violation of public policy often arise when an employee refuses the sexual advances of a supervisor, reports the employer to health and safety officials, or makes a wage claim to the California Labor Commissioner.

An employer can limit exposure to wrongful discharge liability in several ways, mostly by using at-will language in all written and verbal communications with employees. This extends from job announcements and interviews to employee handbooks, training seminars and employee reviews. It is also advised to avoid references in all situations that indicate job security or permanence.

Additional information and guidelines on at-will employment and other labor management issues can be found by consulting the following source:

California Labor Law Digest
California Chamber of Commerce
(See contact information above.)

EMPLOYEE SAFETY AND HEALTH PROTECTION

California law provides job safety and health protection for workers under the Cal/

OSHA program, sponsored by the California Department of Industrial Relations (DIR) and the Division of Occupational Safety and Health (DOSH). All employers and employees must comply with the rules and regulations enforced by DOSH/DIR to ensure work and workplaces are safe and healthful. Special rules apply in work that involves hazardous substances.

Information about the Cal/OSHA program can be found at:

Website: http://www.dir.ca.gov/occupational_safety.html

Companies should contact one of the DOSH district offices for details of the Cal/OSHA rules and regulations that apply to the specific business:

Division of Occupational Safety and Health

Cal/OSHA

e-mail: info@dir.ca.gov

Headquarters

455 Golden Gate Avenue, 10th Floor

San Francisco, CA 94102

Tel: (415) 703-5100

Fax: (415) 703-5135

Consultation Service

Toll-free telephone within California: (800) 963-9424

Tel: (916) 263-5765

Fax: (916) 263-5760

e-mail: infocons@dir.ca.gov

Additional information and guidelines on employee safety and health protection and other labor management issues can be found in the following source:

California Labor Law Digest Kit

California Chamber of Commerce

1215 K Street, Suite 1400

Sacramento, CA 95814

Toll-free telephone in the United States: (800) 331-8877

Tel: (916) 444-6670

Fax: (916) 444-6685

Website: <http://www.calchamberstore.com/calchamber>

PROVIDING EMPLOYEE BENEFITS

With the exception of wages and salaries, employee benefits are the primary tools by which employers attract and retain qualified personnel for their organizations. Most employers voluntarily provide a variety of benefit packages. Reasons for providing such benefits range from a desire to be competitive in the relevant labor market to a genuine concern for their employees' welfare.

Vacation, holidays, sick leave, medical, dental and vision coverage, and retirement benefits are not required by law, however. If such benefits are offered, the employer

may choose to pay all, part or none of the costs. Once the benefits are offered, however, law regulates how the employer must apply them. The following highlights some of the key issues of each benefit.

VACATION

The employer has the right to set the amount of vacation employees will earn each year, or if they will earn any at all. Employers also have the right to determine when vacations may be taken, and for how long. It is critical that vacation policies be clear about how much vacation is offered, the rate of accrual, and whether accrual begins immediately or after some period of time.

If an employer chooses to offer paid vacations to employees, the California Labor Commissioner has set forth certain rules by which the employer must abide concerning vacation benefits. Details of these rules are outlined in the following publication, which may be obtained by written request:

Interpretive Bulletin No. 86-3

California Labor Commissioner
455 Golden Gate Avenue, Suite 3149
San Francisco, CA 94102

HOLIDAYS

Employers are not required to offer employees time off for holidays, nor are employers required to pay for time for holidays granted. Accommodation of religious holidays may be required in certain circumstances (see Section 12 of this booklet, *Complying with Equal Employment Opportunity Laws*). It is wise to set forth at the beginning of each year which, if any, holidays will be granted and whether they will be paid.

The most commonly granted holidays in California are:

New Year's Day – January 1
Easter Sunday – varies, March 21 to April 20
Memorial Day – May 31, observed on the last Monday in May
Independence Day – July 4
Labor Day – first Monday in September
Veterans Day – November 11
Thanksgiving – fourth Thursday in November
Christmas – December 25

Employers should set forth a holiday policy explaining what will happen if an employee is required to work on a day which the employer has designated as a paid holiday. The common procedure is to grant another day off or pay one and one-half to two times the employee's normal rate on the holiday.

Employers should establish a policy for the situation where a holiday falls on a day that is the employee's usual "day off." If it is company policy to give that holiday as a

paid day, and all other employees are being paid for that holiday, then the employee in question also should be paid for the holiday unless the policy clearly states otherwise.

When an employee quits or is terminated, there is no entitlement to pay for any future holiday that has not yet occurred.

PERSONAL DAYS AND/OR FLOATING HOLIDAYS

Some employers elect to grant holidays that employees may take for specific events, such as a birthday or anniversary, or at any time not associated with a specific event. The way an employer's policy defines personal days or floating holidays is critical to the issue of whether unused days must be paid out at the end of the employment relationship. Time off which is tied to a specific event is treated as a holiday and need not be paid out at termination. Time off which is not tied to a specific event must be treated the same as vacation time, which accrues and vests, and therefore must be paid out at termination.

SICK LEAVE

Most California employees participate in the State Disability Insurance Plan (SDI), which they pay for through payroll deduction. In addition to the mandated SDI benefits, the employer is not required by law to offer paid sick leave to employees. However, many employers offer paid days off to employees for use when they are ill.

Unlike vacation days, sick leave does not accrue or vest. Therefore, any unused sick leave may be forfeited at the end of a designated period of time, and sick leave does not need to be paid out upon termination of the employment relationship.

Additional information about SDI can be obtained from:

California Employment Development Department

Website: <http://www.edd.ca.gov/diind.htm>

Toll-free, statewide, inside California: (800) 480-3287

Toll-free, worldwide, outside California: (800) 250-3913

SDI telephone contact numbers (collect calls accepted):

Northern California

Chico (530) 895-4433

Eureka (707) 445-6568

Fresno (559) 445-5393

Oakland (510) 577-2300

Redding (530) 225-2900

Sacramento (916) 227-0220

San Francisco (415) 749-7400

San Jose (408) 277-9499

Santa Barbara (805) 568-1317

Santa Rosa (707) 576-2095

Stockton (209) 948-7682

Southern California

Bakersfield (805) 845-5500
Glendale (818) 551-2000
Long Beach (562) 984-1630
Los Angeles (213) 580-3001
Riverside (909) 369-0113
San Bernardino (909) 383-4171
San Diego (619) 689-6700
San Gabriel Valley (626) 854-9600
Santa Ana (714) 558-4341

PAID TIME OFF

Some employers combine vacation, sick leave, personal days and/or floating holidays into one benefit called Paid Time Off (PTO). This allows employees a certain number of days off per year to use for illness, vacation, holidays, and personal needs.

While PTO is an acceptable benefit, employers are warned that the Labor Commissioner will consider the entire sum of PTO to be vacation. Therefore, the entire amount of accrued but unused PTO granted to employees must be paid out at the termination of the employment relationship.

MEDICAL, DENTAL AND VISION

The law does not require employers to provide health insurance coverage for employees. Employers may choose to pay for all, part or none of such insurance.

Employers who do offer health insurance benefits will find that group plans are always less expensive than individual plans. The employer may have a standard plan for all employees or may offer each employee the same amount of dollar benefits and permit the employee to select desired benefits from a “menu” of options offered by the insuring company. For all plans, all employees must be treated equally. However, an employer may offer different insurance plans to different groups of employees, such as production versus managerial employees, so long as that distinction is not based on any “protected class” considerations. An employer may also establish a weekly work hour threshold concerning eligibility for such benefits. Finally, an employer is required to give employees a minimum of 15 days’ notice before making any change in the level or composition of health insurance benefits.

A listing of licensed health care, dental and vision plans can be obtained from the California Department of Managed Health Care, from the department’s Internet website, or by contacting one of its two offices:

California Department of Managed Health Care
980 9th Street, Suite 500
Sacramento, CA 95814-2725
Tel: (916) 324-8176
Fax: (916) 322-9430

e-mail: geninfo@dmhc.ca.gov

Website: <http://www.hmohelp.ca.gov/library/reports/licensed/licensed.pdf>

320 West 4th Street, Suite 880

Los Angeles, CA 90013

Tel: (213) 620-2744

Fax: (213) 620-2103

RETIREMENT

The law does not require an employer to offer its employees a retirement program, although many employers offer such benefits. If a retirement plan is offered, it must be fully disclosed and offered to all employees. The terms of the retirement program are enforceable in California courts. Retirement plans can be financed entirely by the employer through profit sharing or periodic contributions; plans also may be financed through employer and employee matching funds or by many other means. Periodic accounting should be made to employees or as reported by the retirement fund's management.

ESTABLISHING WAGES AND HOURS

Employers in California are subject to labor laws from many sources, both state and federal. When these laws conflict, there often is no easy answer to the issue of which one will prevail. In general, the law that is most restrictive to the employer and most generous to the employee must be followed.

SOURCES OF CALIFORNIA LABOR LAW

The following are but a few of the sources of California labor law:

- California's Labor Code
- California's Government Code (Fair Employment and Housing Act)
- Industrial Welfare Commission Wage Orders
- Department of Labor Standards Enforcement Interpretive Bulletins
- California Code of Regulations

SOURCES OF FEDERAL LABOR LAW

In addition, California employers must comply with federal law, which often conflicts with state law or is more or less restrictive. In general, California's wage and hour laws are more restrictive than federal laws, though there are some exceptions.

The following are some of the sources of federal labor law:

- Fair Labor Standards Act
- Davis-Bacon Act (prevailing wage)
- Americans with Disabilities Act
- Immigration and Naturalization Act
- Family and Medical Leave Act

FAIR LABOR STANDARDS ACT

The Fair Labor Standards Act (FLSA), enacted in 1938, is by far the most important federal law affecting wages and hours with which employers should be familiar. The FLSA establishes minimum wage, overtime pay, record keeping and child labor standards which affect some 70 million employees in private firms, 8.5 million state and local government employees, and 2.5 million federal government employees.

The FLSA requires employers to:

- Pay at least the current minimum wage to all covered and nonexempt employees for all hours worked
- Pay at least one and one-half times the regular rate of pay of all covered and nonexempt employees for all hours worked over 40 in the work week
- Comply with FLSA child labor standards
- Comply with FLSA record keeping requirements

There are a number of employment practices that FLSA does **not** regulate, including:

- Vacation, holiday, severance or sick pay
- Meal or rest periods
- Premium pay for weekend or holiday work
- Pay raises or fringe benefits
- A discharge notice, reason for discharge, or immediate payment of final wages to terminated employees.

These and other matters are for agreement between the employer and the employees or their authorized representatives, or are covered by state law. All employers subject to the act must comply with its provisions as well as any more stringent California laws on the same subject.

Inquiries and requests for additional information on wages, hours and the FLSA should be addressed to any of the California-based, U.S. Department of Labor district offices:

U.S. Department of Labor
Employment Standards Administration, Wage and Hour Division
Website: <http://www.dol.gov>
East Los Angeles District Office
Tel: (626) 966-0478; (626) 966-8679; Fax: (626) 966-5539
Los Angeles District Office
Tel: (818) 240-5274; (213) 894-6375; Fax: (213) 894-6845
Sacramento District Office
Tel: (916) 978-6120; Fax: (916) 978-6125
San Diego District Office
Tel: (619) 557-5606; Fax: (619) 557-6375
San Francisco District Office
Tel: (415) 744-5590; Fax: (415) 744-5088

Additional information on wages and hours as well as other labor management issues can be found by consulting the following sources:

Employer's Guide to the Fair Labor Standards Act leads an employer through the maze of regulations and case law to proper compliance with the law. Order information can be obtained from:

Toll-free telephone within the United States: (800) 964-5815

Telephone outside of the United States: (813) 282-8807

Website: <http://www.thompson.com/libraries/wagehour/wage/index.html>

California Labor Law Digest Kit

California Chamber of Commerce

1215 K Street, Suite 1400

Sacramento, CA 95814

Toll-free telephone within the United States: (800) 331-8877

Tel: (916) 444-6670; Fax: (916) 444-6685

Website: <http://www.calchamberstore.com/calchamber>

WAGE RATES

The Industrial Welfare Commission regulates wages and hours of non-exempt employees in California through wage orders. Each of the 15 wage orders is specific to the industry or occupation it covers. Within each wage order, an employer will find regulations on such things as:

- Hours and days of work
- Minimum wages
- Reporting time paid
- Licenses for disabled workers
- Record retention
- Cash shortage and breakage
- Meals and lodging
- Meal periods
- Rest periods

The 15 wage orders include details for the following industries and occupations:

- 1) Manufacturing
- 2) Personal Services
- 3) Canning, freezing and preserving
- 4) Professional, technical, clerical, mechanical and similar occupations
- 5) Public housekeeping
- 6) Laundry, linen supply, dry cleaning and dyeing
- 7) Mercantile
- 8) Industries handling products after harvest
- 9) Transportation
- 10) Amusement and recreation
- 11) Broadcasting
- 12) Motion picture
- 13) Industries preparing agricultural products for market, on the farm
- 14) Agricultural operations

15) Household services

Wage orders for any of the industries and occupations listed above can be obtained free of charge with a written request (that includes a mailing address) to:

Attention: Posters
Department of Industrial Relations
Public Information Office
P.O. Box 420603
San Francisco, California 94142-0603

CalBIS can provide its clients with wage range survey information of various positions. CalBIS can be contacted at:

California Business Investment Services
722 Capitol Mall, MIC 47
Sacramento, CA 95814
Tel: (916) 645-7216; Fax: (916) 654-5378
e-mail: CalBIS@edd.ca.gov

FILING EMPLOYMENT TAXES

According to the U.S. Internal Revenue Service (IRS), an employee is defined as “anyone who performs services that can be controlled by an employer.” Employers are responsible for regularly filing employees’ withheld state and federal income taxes and payroll taxes.

Because of the complex nature of income and payroll taxes, it is recommended that a business consult with or retain the services of a certified public accountant or accounting firm. Accountants and accounting firms can be located in the telephone directory Yellow Pages under “accountants.”

State and federal requirements for employee income tax withholding and payroll tax payment are outlined below:

STATE OF CALIFORNIA

Companies with employees must register with the California Employment Development Department (EDD) for state income tax withholding and employment taxes.

Different rules apply to various types of employers in determining when each becomes “subject” to the employment tax laws of California. Generally, a business becomes a “subject employer” upon paying wages in excess of \$100 in a calendar quarter to one or more employees within the current or preceding calendar year. Once subject, an employer must report for the current and subsequent years regardless of the amount of wages paid.

An employer is required to register with EDD within 15 calendar days after paying more than \$100 in wages for employment in a calendar quarter, or whenever a change in ownership occurs. The employer may register by telephone, or complete a

Registration Form for Commercial Employers (DE 1) and send it to:

Employment Development Department
Tax Status and Exam Group, MIC 28
P.O. Box 826880
Sacramento, CA 94280-0001
Tel: (916) 654-7041
Fax: (916) 654-9211

The federal Employment Identification Number (EIN – See Section 6 of this booklet, *Registering for Business Taxes, U.S. Federal Government*) should be included on the DE 1 registration form so unemployment insurance tax credits will be properly applied.

When the employer registers with EDD, the company will be assigned an eight-digit account number. This number will be used on all reporting forms sent to the company and on all notices relating to former employees. The employer should provide the number to any bank or payroll service that may prepare the company's tax forms.

NOTE:

There are six different DE 1 registration forms.

Non-profit employers, governmental organizations, and employers of agricultural or household workers may be required to complete a specific DE 1 form. Such businesses should check with EDD regarding which form is the appropriate one for the business.

Below are the state taxes that employers must withhold or pay:

Income tax

EMPLOYEE PAYS; EMPLOYER WITHHOLDS. State income tax is the responsibility of the employee; however, the employer withholds the tax and pays it to the California Franchise Tax Board on behalf of the employee.

State income tax is based on the "adjusted gross income" reported – the income amount remaining after various deductions are taken, determined according to individual circumstances. State income taxes are assessed at graduated rates on the "adjusted gross income."

State Disability Insurance

EMPLOYEE PAYS; EMPLOYER WITHHOLDS. The State Disability Insurance (SDI) program provides benefits to eligible workers experiencing a loss of wages when they are unable to perform their regular or customary work due to a non-occupational illness or injury, or disability resulting from pregnancy or childbirth. SDI is funded entirely by employees through withheld wages and paid to either the SDI fund or a voluntary plan for disability insurance.

State Unemployment Insurance

EMPLOYER PAYS. The purpose of the State Unemployment Insurance (SUI) program is to provide financial assistance to people who are temporarily out of work through no

fault of their own. In California, this program is financed entirely by employers through a payroll tax based on the first \$7,000 in wages paid to each employee each year. Employers are required to pay their accumulated SUI taxes four times a year. Rates are adjusted according to the employer's experience of unemployment claims. Generally, the more there is employee turnover, the higher the employer's unemployment insurance rate will be.

Employment Training Tax

EMPLOYER PAYS. In 1982, the California State Legislature created the Employment Training Panel (ETP) as a cooperative business labor program to provide employers with skilled workers and provide workers with good, long-term jobs. The Legislature also established the Employment Training Tax (ETT). All tax-rated employers, including new employers, are subject to ETT which is used to fund the ETP's program and training contracts. All employers are assessed a small percent of the first \$7,000 of each employee's wages.

For information or advice about state income tax withholding and payroll tax payment, or about employment tax seminars for employers, contact one of the following offices:

Employment Tax Customer Service Offices (ETCSO)

Employers outside of California or the United States should contact:

3321 Power Inn Road, Suite 220

Sacramento, CA 95826-6110

Tel: (916) 464-3502

Fax: (916) 464-3504

In-state employers should contact one of the following:

Southern California

1800 30th Street, Suite 390

Bakersfield, CA 93301-1935

Tel: (805) 395-2896

Fax: (805) 395-2563

4300 Long Beach Blvd., Suite 700A

Long Beach, CA 90807

Tel: (562) 428-0021

Fax: (562) 422-6698

464 West Fourth Street, 4th Floor

San Bernardino, CA 92401

Tel: (909) 383-4176

Fax: (909) 383-7900

4820 McGrath Street, Suite 250

Ventura, CA 93003

Tel: (805) 654-4506

Fax: (805) 677-2790

Northern California

3321 Power Inn Road, Suite 220

Sacramento, CA 95826-6110

Tel: (916) 464-3502

Fax: (916) 464-3504

31 East Channel Street, Room 219A

Stockton, CA 95202-2314

Tel: (209) 956-1438

Fax: (209) 948-3633

NOTE:

State employment tax rates, allowances
and withholding schedules are available

on the Internet at the website:

<http://www.edd.cahwnet.gov/employer.htm>

Forms and reference

Registration Form for Commercial Employers (DE 1)

Website: <http://www.edd.ca.gov/de1.pdf>

Details about state employment taxes can be found in the following source:

California Employer's Guide

Download from the Internet at: <http://www.edd.ca.gov/taxform.htm>

Order online at: <http://www.edd.ca.gov/taxordn2.htm>

Obtain a hard copy from an Employment Tax Office (listed on page 45 of this book), or from:

Employment Development Department Publications Warehouse

1733 W Sports Drive, Suite B, Sacramento, CA 95834

Telephone: (916) 322-2835

U.S. FEDERAL GOVERNMENT

When an employer registers with the U.S. Internal Revenue Service (IRS) for an Employer Identification Number (EIN), this informs the federal government that the business may have employees. The business is responsible for regularly depositing employees' withheld federal income tax and payroll taxes with the IRS. The filing schedule varies, depending on the composition of the business and the amount of tax liability. Below are the federal taxes that the employer must withhold or pay:

Income tax

EMPLOYER WITHHOLDS; EMPLOYEE PAYS. Although payment of federal income tax is the responsibility of the employee, the employer withholds the tax and submits it to the U.S. Internal Revenue Service (IRS) on behalf of the employee.

Federal income tax is based on “adjusted gross income” – the income amount remaining after various deductions are taken, determined according to individual circumstances.

Federal income taxes are assessed at graduated rates on the “adjusted gross income.” Tax liabilities are published on IRS tax tables, which are available on the Internet and in the IRS publication ***Circular E, Employer’s Tax Guide***, referenced below.

Federal Unemployment Tax Act (FUTA)

EMPLOYER PAYS. The Federal Unemployment Tax Act (FUTA), along with the state unemployment systems, provides for payments of unemployment compensation to workers who have lost their jobs. Only the employer pays FUTA tax; it is not deducted from the employee’s wages.

Federal Insurance Contributions Act (FICA)

EMPLOYER WITHHOLDS AND EMPLOYER MATCHES. The Federal Insurance Contributions Act (FICA) consists of both Social Security (retirement) payroll tax and Medicare (hospital insurance) tax.

Employers withhold the Social Security and Medicare taxes for the employee; employers also make matching tax payments of the same amounts to the IRS. Social Security tax applies to wages up to a maximum wage base; Medicare tax applies to all wages with no maximum wage base.

For additional information about federal income tax withholding and payroll tax payment, consult:

Circular E, Employer’s Tax Guide

Internal Revenue Service

Western Area Distribution Center

Rancho Cordova, CA 95743-0001

Toll-free telephone within the United States: (800) 829-3676

Website: <http://www.irs.gov/pub/irs-pdf/p15.pdf>

IRS Taxpayer Education Offices offer Small Business Tax Programs (STEP) periodically throughout California on how to prepare payroll taxes. For workshop schedules, contact one of the following centers:

IRS Taxpayer Education Offices

55 South Market Street, Stop HQ-6300

San Jose, CA 95113; (408) 494-8123

1301 Clay Street, Suite 1520S

Oakland, CA 94612-5120; (510) 637-2473

4330 Watt Avenue, #SA5650

North Highlands, CA 95660; (916) 974-5088

24000 Avila Road, Room 3401

Laguna Niguel, CA 92677; (949) 389-4287

300 North Los Angeles Street, Room 5119
Los Angeles, CA 90012; (213) 576-4180

Questions about federal income tax withholding, payroll
tax payment, or other IRS matters should be addressed to:
Internal Revenue Service
Customer Service
1301 Clay Street, Suite 160 South
Oakland, CA 94612
Tel: (510) 637-2487

Toll-free telephone within the United States: (800) 829-1040
Telephone at Washington, D.C. headquarters: (202) 874-1460
e-mail (accessed via the IRS website):
<http://www.irs.ustreas.gov/prod/help/newmail/user.html>
**Federal tax rates and taxable wage limits
are subject to change each year.**

NOTE:

For current rates or other information
about withholding federal income tax
or paying payroll taxes, consult with
the Internal Revenue Service (IRS).

Toll-free telephone in the United States:

(800) 829-1040

Website: [http://www.irs.ustreas.gov/
prod/forms_pubs/pubs/p1503.htm](http://www.irs.ustreas.gov/prod/forms_pubs/pubs/p1503.htm)

IRS publications:

Website: http://www.irs.gov/forms_pubs/pubs.html

IRS Overseas Assistance Centers

Europe

Berlin, Germany (49-30) 8305-1140
London, England (44-207) 408-8077
Paris, France (33-1) 4312-2555
Rome, Italy (39-06) 4674-2560

Latin America

Mexico City, Mexico (52-555) 080-2191

Asia

Singapore (65-6) 476-9413
Tokyo, Japan (81-3) 3224-5466

OBTAINING WORKERS' COMPENSATION INSURANCE

Workers' compensation is the oldest social insurance program in the United States; programs vary from state to state. Workers' compensation insurance became mandatory for California employers in 1913.

California Labor Code requires all employers (that have at least one employee) to carry workers' compensation insurance. It is a no-fault system, meaning that injured employees need not prove the injury was someone else's fault in order to receive workers' compensation benefits for an on-the-job injury.

The workers' compensation system is premised on a trade-off between employees and employers – employees are supposed to promptly receive the limited statutory workers' compensation benefits for on-the-job injuries, and in return, the limited workers' compensation benefits are the exclusive remedy for injured employees against their employer, even when the employer negligently caused the injury.

This no-fault structure was designed to – and in fact did – eliminate the then-prevalent litigation over whether employers were negligent in causing workers' injuries. Since the early 1990s, workers' compensation expenses have decreased significantly in California.

There are three basic parts to the workers' compensation system:

- Benefit structure
- Benefit delivery
- Benefit financing

THE BENEFIT STRUCTURE

The benefit structure defines what injured workers are entitled to receive when they sustain an injury “arising out of ” and in the course of their employment. There are five basic types of workers' compensation benefits available, depending on the nature and severity of the worker's injury: (1) medical care, (2) temporary disability benefits, (3) permanent disability benefits, (4) vocational rehabilitation services, and (5) death benefits.

THE BENEFIT DELIVERY SYSTEM

Unlike most social insurance programs (e.g., social security and unemployment compensation), workers' compensation in California, as well as in most other states, is not administered by a government agency. Workers' compensation benefits are administered primarily by private parties – insurance companies authorized to transact workers' compensation and those employers secure enough to be permitted to self-insure their workers' compensation liability.

When an employer becomes aware of an on-the-job injury, the employer is expected to begin the process of providing the injured worker the benefits to which he or she is entitled under the law. Either the employer (if the employer is authorized to self-insure) or the employer's insurer pays the benefits.

The state's role in benefit delivery is to oversee the provision of workers' compensation benefits, provide information and assistance to employees, employers, and others involved in the system, and to resolve disputes that arise in the process.

THE BENEFIT FINANCING SYSTEM

Employers may finance their liability for workers' compensation benefits by one of three methods: (1) self-insurance, (2) private insurance, or (3) state insurance.

Self-insurance: Most large, stable employers and most government agencies are self-insured for workers' compensation. To become self-insured, employers must obtain a certificate from the Department of Industrial Relations. Private employers must post security as a condition of receiving a certificate of consent to self-insure.

For additional information about self-insurance plans and obtaining a self-insurance certificate, contact:

Office of Self Insurance Plans
Department of Industrial Relations
2265 Watt Avenue, Suite 1
Sacramento, CA 95825
Tel: (916) 483-3392
Fax: (916) 483-1535
Website: <http://www.dir.ca.gov/sip>

Private Insurance: Employers may purchase insurance from any of the approximately 300 private insurance companies which are licensed by the Department of Insurance to transact workers' compensation insurance in California. Insurance companies are free to price this insurance at a level they deem appropriate for the insurance and services provided.

State Insurance: Employers may also purchase insurance from the State Compensation Insurance Fund, a state-operated entity that exists solely to transact workers' compensation insurance on a non-profit basis. It actively competes with private insurers for business.

For details about workers' compensation and California labor law, and access to the California Labor Code, contact:

Division of Workers' Compensation
California Department of Industrial Relations
455 Golden Gate Avenue, 9th Floor
P.O. Box 420603
San Francisco, CA 94142
Tel: (415) 703-4600
Fax: (415) 703-4664
Website: <http://www.dir.ca.gov>

FINDING EMPLOYEES

There are several avenues by which a company can promote job openings and seek qualified candidates. These include:

- Local and national newspaper and business publication classified advertisements

- College and university career development centers
- Industry and trade associations

Additionally, private employment agencies provide clerical and secretarial, bookkeeping and accounting, skilled and unskilled labor, assembly, light industrial and warehousing, and even medical workers for temporary or permanent service. Employment agencies are listed in the telephone Yellow Pages under “employment.”

The California Employment Development Department (EDD) also provides employment referral and recruitment services.

CALIFORNIA EMPLOYMENT DEVELOPMENT DEPARTMENT

Through CalJOBS, the EDD Job Service offers an Internet-based network that links employers with job seekers in California and nationwide.

EDD Job Service also provides employers with other services to meet workforce needs:

- Re-employment services for dislocated workers.
- Labor market information for planning business expansion, relocation, and future hiring.
- Focused recruitment for new business ventures or facilities needing a large number of specialized workers in a hurry.
- Coordinated workforce preparation services in partnership with local employment and training agencies.

Listing Job Openings

California employers with Internet access can enter their job listings directly into the CalJOBS website; otherwise, job announcements can be phoned or faxed in to an EDD Job Service location, listed on the Internet (see below). Job Service staff at locations closest to the work site will be familiar with local economic conditions.

Employers can have their jobs listed publicly, enabling qualified job seekers to view the job information and apply directly to the company. Employers may also request EDD’s assistance in screening suitable employees from the CalJOBS database.

For additional information, contact CalJOBS at one of the numerous EDD Job Service locations:

Employment Development Department
CalJOBS

Toll-free telephone within the United States: (800) 758-0398

Websites: <http://www.edd.cahwnet.gov/employer.htm> (General information)

<http://www.edd.cahwnet.gov/jsloc.htm> (EDD Job Service locations)

<http://www.caljobs.ca.gov>

Part 5: Physically Setting Up an Office or Facility

LOCATING AN OFFICE OR FACILITY

Property leasing agreements can be as variable as the property locations. Sites can be found for short periods to very long periods of time, with anywhere from ready-to-occupy facilities to build-to-suit arrangements.

In the United States, there is generally no limitation on foreign companies purchasing and owning real estate.

Locating site options for an office, manufacturing, research and development or distribution facility is one of the key services provided by CalBIS. CalBIS's statewide offices stand ready to work with local economic development corporations and real estate professionals to assist a foreign business in finding the appropriate location for a California expansion.

For site location assistance, contact:

CalBIS
Employment Development Department
722 Capitol Mall, MIC 47
Sacramento, CA 95814
Tel: (916) 654-7216
Fax: (916) 654-5378
e-mail: CalBIS@edd.ca.gov
www.investca.com

BUSINESS INCUBATORS

Small, starting companies that need limited office space for only a few months to initiate their businesses may do well to participate in one of the business incubator programs. There are a growing number of business incubators throughout California sponsored by various entities, such as universities, cities or counties, ethnic or industry associations, or private companies.

The business incubator is a cost-effective way for companies to find space to start their businesses. A few incubators are solely international in focus, while most of the others welcome international businesses. Incubator facilities can vary, but generally they offer an individual office, cubical or at least a desk for the businessperson, plus communal communication and business services. The incubator offers other benefits to a newly formed business. Within the organization are advisors and/or mentors who can guide a business person on legal, financing, banking, and personnel matters.

For location information on business incubators around California, contact:

CalBIS
Employment Development Department

722 Capitol Mall, MIC 47
Sacramento, CA 95814
Tel: (916) 654-7216
Fax: (916) 654-5378
e-mail: CalBIS@edd.ca.gov
www.investca.com

ACQUIRING OFFICE/MANUFACTURING EQUIPMENT

Office furnishings can be rented or bought through businesses that deal primarily with office occupants. These companies are easy to locate through local telephone Yellow Pages under "office furniture and equipment, dealers or rental." Companies that sell telephone and computer systems, copy, fax and mail machines and other technical equipment can also be located through the Yellow Pages. Such equipment is sold through retail outlets, or may be found through discount or wholesale outlets as well, which are very popular in California. Companies selling other office supplies such as pens, paper, tape and staples can be found through the Yellow Pages listed under "office supplies" or "stationers," or through catalog sales.

OBTAINING OFFICE/FACILITY INSURANCE

It is prudent for a business, whether service- or manufacturing-oriented, to obtain property and liability insurance coverage for the physical office or facility.

In general, a business owner policy (BOP) covers:

- Property: Building (if owned)
- Business personal property (building contents)
- Time element (business income and extra expense)
- Liability: Premises/building
- Business operations
- (Includes bodily injury or property damage)

Specific coverage can be added to a BOP for things such as flood, fine arts and equipment, employee dishonesty (forgery, embezzlement, burglary), etc.

The best source to find a business or commercial insurance broker is through the telephone Yellow Pages, listed under "insurance."

MAKING USE OF GOVERNMENT INCENTIVES

The State of California provides a variety of incentive programs to encourage investment and reduce the cost of starting and operating a business in California, such as:

- Manufacturers' investment credit
- Research and development tax credits
- Enterprise Zones (EZ)
- Local Agency Military Base Recovery Areas (LAMBRA)

- . Employee training and referral services
- . Small business financing
- . Industrial development bonds
- . Pollution control financing and loans
- . Local economic revitalization tax rebates, loans, financing and investment incentives

CalBIS can work with companies to determine if incentive options are available for the specific business. Details of the above incentive programs and packages are available through CalBIS.

Other Resources

AGENCIES AND ORGANIZATIONS

STATE

California Business Investment Services – CalBIS Employment Development Department

722 Capitol Mall, MIC 47
Sacramento, CA 95814
Tel: (916) 654-7216
Fax: (916) 654-5378
e-mail: CalBIS@edd.ca.gov
Website: <http://www.InvestCA.com>

California Chamber of Commerce

1215 K Street, Suite 1400
Sacramento, California 95814
Tel: (916) 444-6670
Fax: (916) 444-6685
Toll-free telephone within the United States: (800) 331-8877
Website: <http://www.calchamber.com>

FEDERAL/NATIONAL

U.S. Small Business Administration

Website: <http://www.sba.gov>

Business Information Centers

The Entrepreneur Center
455 Market Street, 6th Floor
San Francisco, California 94105
Tel: (415) 744-4244
Fax: (415) 744 6812

Los Angeles District Office
3600 Wilshire Blvd., Suite L100
Los Angeles, CA 90010
Tel: (213) 251-7253
Fax: (213) 251-7255

San Diego District Office
550 West C Street, Suite 550
San Diego, CA 92101-3540
Tel: (619) 557-7250, ext. 1126
Fax: (619) 557-5894

Southwestern College
900 Otay Lake Road, Bldg. 1600
Chula Vista, CA 91910
Tel: (619) 482-6393
Fax: (619) 482-6402

U.S. Customs Service

1300 Pennsylvania Avenue NW
Washington, DC 20229
Tel: (202) 927-1000
Websites: <http://www.customs.treas.gov/> (General)
<http://www.customs.treas.gov/top/office.htm> (California ports of entry)

Trade Information Center

International Trade Administration

U.S. Department of Commerce

Toll-free telephone within the United States: (800) USA-TRADE or
(800) 872-8723

U.S. International Trade Commission

500 E Street SW
Washington, D.C. 20436
Tel: (202) 205-2000
Fax: (202) 205-2104
Website: <http://www.usitc.gov/>

American Immigration Lawyers Association

918 F Street NW
Washington, DC 20004-1404
Tel: (202) 216-2400
Fax: (202) 783-7853
Website: <http://www.aila.org>

PUBLICATIONS

BUSINESS START- UP KITS

LABOR, EMPLOYMENT AND ENVIRONMENTAL COMPLIANCE

Various useful publications

California Chamber of Commerce
1215 K Street, 14th Floor
Sacramento, CA 95814
Toll-free within the United States: (800) 331-8877
Tel: (916) 444-6670
Fax: (916) 444-6685

Website: <http://calchamberstore.com>

California Labor Law Survival Kit

California Chamber of Commerce

See contact information above

Labor Law Helpline: (916) 444-6670

Website: <http://www.calchamberstore.com/calchamber>

Employer's Guide to the Fair Labor Standards Act

Toll-free telephone within the United States: (800) 964-5815

Telephone outside of the United States: (813) 282-8807

Website: <http://www.thompson.com/libraries/wagehour/wage/index.html>

TAXES

Striking Gold in California

Greater Sacramento Small Business Development Center

1410 Ethan Way

Sacramento, CA 95825

Tel: (916) 563-3210

Fax: (916) 563-3266

e-mail: steimle@sbdsc.net

Website: <http://www.taxes.ca.gov/striking.pdf>

Circular E, Employer's Tax Guide

Internal Revenue Service

Western Area Distribution Center

Rancho Cordova, California 95743-0001

Toll-free telephone within the United States: (800) 829-3676

Website: <http://www.irs.gov/pub/irs-pdf/p15.pdf>

Additional IRS publications on various federal tax topics can be found on the Internet.

Website: http://www.irs.gov/prod/bus_info/index.html

California Employer's Guide

Download from the Internet at <http://www.edd.ca.gov/taxform.htm>

Order online, <http://www.edd.ca.gov/taxordn2.htm>. Obtain a hard copy from an Employment Tax Office (listed on page 45 of this book), or from:

Employment Development Department Publications Warehouse

1733 W Sports Drive, Suite B, Sacramento, CA 95834

Tel: (916) 322-2835

Guide for Corporations Starting Business in California (FTB 1060)

Franchise Tax Board (FTB)

P.O. Box 942857

Sacramento, California 94257-0500

Toll-free telephone in the United States: (800) 852-5711

Tel: (916) 845-6500

Website: <http://www.ftb.ca.gov/forms/misc/1060.pdf>

PRODUCT CLASSIFICATION

Harmonized Tariff Schedule of the United States

U.S. International Trade Commission
500 E Street SW, Washington, D.C. 20436
(202) 205-1819

Website: <http://www.customs.ustreas.gov/impoexpo/impoexpo.htm>

Internet Links to Useful Forms

A-1 Statement of Partnership Authority (GP-1)

Website: <http://www.ss.ca.gov/business/gp/forms/gp-1.pdf>

A-2 Statement of Dissociation (GP-3)

Website: <http://www.ss.ca.gov/business/gp/forms/gp-3.pdf>

A-3 Statement of Amendment/Cancellation (GP-7)

Website: <http://www.ss.ca.gov/business/gp/forms/gp-7.pdf>

B-1 Foreign Limited Partnership Application for Registration (LP-5)

Website: <http://www.ss.ca.gov/business/lp/forms/lp-5.pdf>

B-2 Foreign Limited Partnership Amendment to Application for Registration (LP-6)

Website: <http://www.ss.ca.gov/business/lp/forms/lp-6.pdf>

B-3 Limited Partnership Certificate of Cancellation (LP-4/7)

Website: <http://www.ss.ca.gov/business/lp/forms/lp-4.pdf>

C-1 Registered Limited Liability Partnership Registration (LLP-1)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-1.pdf>

C-2 Limited Liability Partnership Alternative Security Provision (LLP-3)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-3.pdf>

C-3 Limited Liability Partnership Amendment to Registration (LLP-2)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-2.pdf>

C-4 Limited Liability Partnership Notice of Change of Status (LLP-4)

Website: <http://www.ss.ca.gov/business/llp/forms/llp-4.pdf>

C-5 Request for Tax Clearance Certificate (FTB 3555L)

Website: <http://www.ftb.ca.gov/forms/index.htm>

Click on the current tax filing year, then under the subheading
"Tax Forms and Instructions," find the link for FTB 3555L

D-1 Limited Liability Company Application for Registration (LLC-5)

Website: <http://www.ss.ca.gov/business/llc/forms/llc-5.pdf>

D-2 Limited Liability Company Application for Registration Certificate of Amendment (LLC-6)

Website: <http://www.ss.ca.gov/business/llc/forms/llc-6.pdf>

D-3 Limited Liability Company Certificate of Cancellation (LLC-4/7)

Website: <http://www.ss.ca.gov/business/llc/forms/llc-4-7.pdf>

E-1 Statement and Designation by Foreign Corporation (S&DC-General)

Website: http://www.ss.ca.gov/business/corp/pdf/foreign/corp_s&dcgen.pdf

E-2 Amended Statement by Foreign Corporation

Website: http://www.ss.ca.gov/business/corp/pdf/foreign/corp_asdc.pdf

E-3 Certificate of Surrender of Right to Transact Intrastate Business

Website: http://www.ss.ca.gov/business/corp/pdf/foreign/corp_surr.pdf

F-1 Registration of Trademark and Service Mark (LP/TM 100)

Website: <http://www.ss.ca.gov/business/ts/forms/tm-100.pdf>

G-1 Application for Employer Identification Number (Form SS-4)

Website: http://www.irs.ustreas.gov/prod/tax_edu/teletax/tc755.html

H-1 Application for a Social Security Card (Form SS-5)

Website: <http://www.ssa.gov/replace/sscard.html>

H-2 Application for IRS Individual Taxpayer Identification Number (Form W-7)

Website: http://www.irs.gov/ind_info/itin.html

I-1 Application for a Seller's Permit and Registration as a Retailer – Corporations/Limited Liability Company/Organizations (BOE-400-MCO)

Website: <http://www.boe.ca.gov/pdf/boe400mco.pdf>

I-2 Application for a Seller's Permit and Registration as a Retailer – Individuals/Partners (BOE-400-MIP)

Website: <http://www.boe.ca.gov/pdf/boe400mip.pdf>

J-1 Registration Form for Commercial Employers (DE 1)

Website: <http://www.edd.ca.gov/de1.pdf>

Appendix I: Investment Incentives and Tax Guide

Business Incentives and Taxes

A California Overview



Presented by: California Business Investment Services
722 Capitol Mall, Suite 5099, MIC 47
Sacramento, CA 95814

(916) 654-7216

April 2004



Business Incentives

California has made a concerted effort to encourage new investment and reduce the cost of starting and operating a business through the creation of various incentives and programs available to businesses operating in the state.

Enterprise Zones (*Targeted Tax Areas, LAMBRA*)

The Enterprise Zone Program spurs business development in designated communities through special zone incentives. Businesses located within the boundaries of an enterprise zone are eligible for tax credits against their California bank and corporation tax liability.

The first major enterprise zone tax credit is equivalent to the sales and use tax paid on the first \$20 million of new or used manufacturing equipment purchased each year. Qualified machinery is the machinery or machinery parts used to:

- Manufacture, process, fabricate, or otherwise assemble a product;
- Produce renewable energy resources; or
- Control air or water pollution.

The definition of “qualified property” has been expanded to include data processing and communications equipment including, but not limited to, computers, CAD systems, copy machines, telephones systems, and faxes. Equipment must be purchased in California unless equipment of comparable price and quality cannot be found in California.

Secondly, businesses may claim a percentage of the wages paid to a qualified employee as a tax credit. The credit is based on the lesser of the actual hourly wage or 150 percent of the state established minimum wage. The credit is provided over a five year period with 50 percent of the wages creditable in the first year of employment, 40 percent the second year, 30 percent the third year, 20 percent the fourth year, and 10 percent the fifth year. If the employee were to stay with the company for the entire 5-year period, the company would receive credits totaling nearly \$32,000 per qualified employee. If the employee is terminated prior to 270 days of employment, the credit is recaptured.

Other zone incentives that may apply include:

- A 15-year carryover of up to 100 percent of net operating losses (suspended until 2004).
- Expensing of up to \$15,000 of certain depreciable property.
- Lender interest income from loan to zone businesses is deductible. (*Not in LAMBRA.*)

Note: LAMBRA (Local Agency Military Base Recovery Area) zones are a companion to Enterprise Zones. The most notable differences in incentives include enhanced equipment purchase eligibility under the sales and use tax credit and redefinition of qualified employees to include displaced military or civilian employees of the former base.

Research and Development Tax Credit

Designed to encourage companies to increase their basic research and development activities in California, the research and development tax credit allows companies to receive an 15 percent credit against their bank and corporation tax liability for qualified in-house research expenses, and a 24 percent credit for basic

research payments to an outside organization. This is one of the highest R&D tax credits in the nation. To qualify, research must be conducted within California and must not include research for the purpose of improving a commercial product for style, taste, cosmetic, or seasonal design factors.

Net Operating Loss Carryover

California tax law allows businesses that experience a loss for the year to carry this loss forward to the next year in order to offset income in the following years. New businesses can carryover 100 percent of their losses for eight years if the loss is in their first year of operation, 100 percent over seven years if the loss is in their second year of operation, and 100 percent over six years if the loss is in their third year of operation. Existing California business can carryover 50 percent of their losses for five years.

Note: AB 2065 Oropeza, Chapter 488 suspended the deduction for net operating losses (NOLs) for the 2002 and 2003 taxable years, then makes the NOL deduction 100 percent thereafter.

Child Care Tax Credit

Companies who pay or incur costs for the start up of a child care program or construction of an on-site child care facility are eligible for credits against their bank and corporation tax liability.

Employers may claim a credit, not to exceed \$50,000, equal to 30 percent of the costs of establishing a child care program or constructing a child care facility for use primarily by their employees' children.

Also, employers may claim a credit (not to exceed \$360 per dependent per year) equal to 30 percent of their contributions to a qualified child care plan made on behalf of any dependents, under age 12, of their California employees.

Excess credits may be carried over to succeeding years.

Redevelopment Area

Various forms of financial assistance are available through local redevelopment agencies in California. Business may benefit through direct financial assistance, land assemblage, and construction of public improvements. Redevelopment is funded through incremental property tax revenue increases that are a direct result of private investment and increased property values.

Assistance may be in the form of fee reductions, infrastructure improvements, land cost reductions, mortgage interest reductions, and utility tax rebates. Recent legislation enables the Redevelopment Agency to provide financing for manufacturing projects under certain conditions. Capital financing or long term operating leases may also be permitted.

Job Referral and Placement

Employment Development Department works with businesses to access the state's entire workforce as well as coordinate recruitment activities with local community based job training and placement organizations called "One-Stop Career Centers". EDD, in cooperation with the One-Stop network, will help to customize and deliver pre-employment and on-the-job training; recruit, screen, and assess workers for specific skills sets; and assist employers to maximize California Enterprise Zone and federal hiring tax credits.

Also through its CalJOBSSM system, EDD's Job Service offers a statewide network that provides an instant link between employers and job seekers anywhere in California. This network provides employers with quick access to the largest available pool of job-ready applicants.

Local & Federal Training and Hiring Incentives

- On-the-Job training contracts provide up to 50 percent wage reimbursements during an established training period for employees meeting specific qualification criteria.
- The federal Work Opportunity Credit equals 40 percent of the first \$6,000 in qualified wages in the first year, provided the employee works at least 400 hours during the tax year.
- The federal Welfare to Work credit equals 35 percent of the first \$10,000 in qualified wages in year one and 50 percent of the first \$10,000 of qualified wages in year two, each time a qualified employee is hired.

California Employment Training Panel

The Employment Training Panel (ETP) assists businesses in acquiring and retraining a highly skilled work force with expertise in very specific fields in order to increase competitiveness and productivity. The ETP will enter into a performance-based customized training contract, for new or existing employees, that is performed by either an approved training agency or the company itself. As the training is completed, the costs for developing, implementing, and completing the training are reimbursed. Ranging from about \$1,500 to \$2,000 per employee, reimbursements are made to the company for each employee that completes training and remains on the job for 90 days. The program is open to all California

companies that face out-of-state competition and meet one or more of the following conditions:

- A need to retrain current employees to prevent layoffs.
- A need to upgrade workers in areas where there are skills shortages.
- A desire to hire and train unemployed workers eligible to receive unemployment insurance.
- Special or unique training needs in industries related to defense conversion or emerging technologies.

State Taxes

California ranks about 23rd among the states in total state and local tax collections per \$1,000 personal income. As a result of state spending limitations and Proposition 13’s limit on property tax, California taxes are competitive with neighboring states.

Corporation Income Tax

The Franchise Tax Board administers an 8.84 percent tax on net corporate income that is known as the bank and corporations franchise tax.

S Corporations are subject to a tax rate of 1.5 percent on net income.

California uses the unitary method to determine the portion of income reasonably attributable to this state and thus subject to the bank and corporation franchise tax. Corporations deriving income from sources both within and outside the state are required to report the income of all related business units in a combined report. The combined income derived from all business activity is apportioned to each state or nation using an apportionment formula. The percentage of property, payroll, and sales attributed to California, versus worldwide operations, is calculated. They are then added together with double weight given to sales and divided by four. This calculation determines the percentage of the unitary or combined income subject to California’s bank and corporation franchise tax.

Apportionment Formula = percentage of unitary income subject to California’s corporate tax.

California	California	California	California
Payroll	Property	Sales	Sales
(%)	+	(%)	+
(%)	+	(%)	(%)

4

Multinational corporations may make a “Water’s Edge” election whereby they exclude most income derived from foreign operations from the combined report. Foreign business units or corporations that have an apportionment percentage in excess of 20 percent must be included in the combined report. The election lasts for seven years, but is continuously renewed unless a notice of non-renewal is filed by the business.

Sales and Use Tax

Administered by the Board of Equalization, the State of California and local jurisdictions impose sales and use tax that averages approximately 7.25 percent. The sales tax applies to the gross receipts of retailers from the sale of tangible personal property which is not specifically exempt. Specific exemptions include most food for home consumption and prescription medicine. Sales tax is imposed at the point of sale. It is the responsibility of the retailer, but paid by the purchaser.

Use tax is paid on items purchased for the intent of use in California. Intent of use is defined as used in California within 90 days of purchase. The tax is self-reported and paid at the rate applicable in the jurisdiction in which the item will be used less the tax paid in another state.

Note: Construction materials are not exempt from sales tax. Construction labor is not taxed.

For more information, visit the Board of Equalization's website at www.boe.ca.gov.

Property Taxes

County government levies and administers property taxes. The State Board of Equalization performs an oversight role relative to the county assessors' activities. The tax rate is 1 percent plus a component representing bonded indebtedness for the district in which the property is located on the lien date. **The average rate in California is 1.1 percent, but varies on a parcel basis.**

The tax is levied on 100 percent of assessed valuation. Real property is assessed at market value, then increased annually the lower of 2 percent or the rate of inflation as measured by the Consumer Price Index. Assessed values on real property may be reduced if the value is higher than the current market value.

Annual review and adjustment will occur until the adjusted value equals the original value plus the 2 percent adjustments. Real property is reappraised upon change of ownership or new construction. Typically the value of new construction is added to the current appraised value.

Business personal property, including machinery, equipment, and fixtures is taxed at the same rate as real property, but is not subject to any special assessments. Unlike real property, business personal property is reappraised annually. Business owners must file a property statement with the county assessor each year detailing market value. *Finished goods and raw materials are not subject to tax. Only finished goods held for use are assessed.*

For more information, visit the Board of Equalization's Property Tax site at <http://www.boe.ca.gov/proptaxes/proptax.htm>

Payroll Tax

All employers are required to pay into the Unemployment Insurance Fund, which is used to pay unemployment benefits. All new employers are required to pay a rate of 3.4 percent on the first \$7,000 in wages for the first three years. In the fourth year, the tax rate is reevaluated based on the employer's tax

payment history, employment history, and potential future unemployment. In addition, 0.1 percent of the first \$7,000 in wages is paid to the Employment Training Panel. The average tax rate is 3.12 percent.

For more information, visit EDD's Payroll Tax page at <http://www.edd.ca.gov/taxind.htm>.

Disability Insurance

All employers are required to withhold 0.8 percent from an employee's first \$31,767 in wages. Administered by the Employment

Development Department, this is an *employee paid tax*.

For more information, visit EDD's Payroll Tax page at <http://www.edd.ca.gov/taxind.htm>.

Workers' Compensation Insurance

The workers' compensation system is overseen by the Department of Industrial Relations and the Department of Insurance. Private insurance carriers in California provide Workers' Compensation Insurance under a new "open-rating" system.

During 2003, the California Insurance Commissioner spearheaded reform legislation that was signed into law. This first wave of reform served to cap the escalating costs in California by targeting medical and vocational rehabilitation costs. In fact, it is estimated to provide a cost reduction of approximately 4 percent. More costs reductions are anticipated with the passage of SB 899 in April 2004.

SB 899 attempts to address business costs as well as worker complaints that the current system sometimes delays medical treatment and ties up disability benefits in a complicated legal system for months or more.

The bill would guarantee immediate medical care for injured workers, while requiring most of them to choose doctors from a company approved pool of physicians who would be based diagnoses and treatment on nationally-recognized standards.

Disability benefits would rise for the most severely injured workers and drop for the least injured, and there would time limits on temporary disability coverage, again based on the type of injury or illness.

To ascertain the cost of coverage, employers must contact an insurance company offering workers' compensation insurance. Pure premium rates approved by the Insurance Commissioner reflect only loss costs, including loss adjustment expenses; they do not include any provision for general expenses, commissions, other acquisition expenses, premium taxes, or profits. Pure premium rates are not mandatory; they are advisory only. The industry is free to charge rates they deem competitive.

Overview of California Tax System

Tax	Base or Measure	Rate	Administering Agency
Corporation Income or Bank and Corporation Franchise Tax	Combined net income apportioned to California.	8.84 percent	Franchise Tax Board
Sales and Use Tax	Receipts from sales or lease of taxable items.	7.25-8.25 percent	Board of Equalization
Property Tax	100 percent of assessed valuation	Avg. 1.1 percent	County Government
Personal Income Tax	Taxable personal income.	1-9.3 percent	Franchise Tax Board
Unemployment Insurance Tax (aka Payroll Tax)	First \$7,000 of wages per employee per year.	3.40 percent, 3.12 percent average	Employment Development Department
Disability Insurance (employee paid)	First \$31,767 of wages	0.8 percent	Employment Development Department
Finished Goods, Raw Materials, and Inventory Tax	NONE	NONE	NONE
Workers' Compensation Insurance	Per \$100 of payroll.	Varies based on job classification, workplace safety record, and insurance carrier.	Department of Insurance, Department of Industrial Relations